United States Department of the Interior

FISH AND WILDLIFE SERVICE
New Mexico Ecological Services Field Office
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August 8, 2003

Lt. Colonel Dana Hurst
Attention: CESPA-OD-R U.S. Army Corps of Engineers 4101
Jefferson Plaza N.E. Albuquerque, New Mexico 87109-3435

Dear Lt. Colonel Hurst: Cons. #2-22-03-1-453

This letter is in response to your request for concurrence with the proposed construction of a low-head weir on the Rio Jemez, in accordance with the Endangered Species Act, as amended (16 U.S.C. § 1531 *et seq.)* (ESA). The U.S. Army Corps of Engineers (Corps) is proposing to construct a low-head weir across the Rio Jemez on Pueblo of Santa Ana (Pueblo) land in Sandoval County. The project information was received by the New Mexico Ecological Services Field Office (NMESFO) on July 2, 2003. You are requesting concurrence with your determination of "may affect, is not likely to adversely affect" for the southwestern willow flycatcher *(Empidonax traillii extimus)* (flycatcher) and bald eagle *(Haliaeetus leucocephalus)* within the project area.

The project objective is to maintain or improve Jemez Canyon Reservoir delta bosque habitat by arresting river channel degradation and the resulting effects of a lowering water table. Continued channel degradation would negatively affect approximately 390 acres of delta bosque habitat. As the river incises and the water table lowers, the amount of riparian habitat available to the federally endangered flycatcher and other riparian obligate bird, mammal, reptile, amphibian, and plant species would decline.

The Corps and Pueblo propose a series of four interlocked polyvinyl chloride (PVC) sheet pile weirs. The weirs would be oriented roughly perpendicular to the Rio Jemez channel approximately 2.5 miles upstream of Jemez Canyon Darn. The structure would have four vertical drops where the river thalweg would drop a total vertical distance of 14 feet. A 25-foot long downstream horizontal impact zone of wire-enclosed rock would be placed below each sheet pile weir. The lateral extent of the first vertical drop would be across the entire width of the non-vegetated channel, with successive drops increasing uniformly at 45 degree extends. Only the second row of sheet piling would be extended to high ground on each side of the river. The top of the second sheet pile row would increase in incremental

one foot steps. The stairstepped configuration of the second row of sheet piling should help direct overbank flows towards the center of the weir structure. Two additional sheet pile rows would extend diagonally from the second row to the third and fourth row along created slopes. These diagonal rows of sheet piling are intended to direct flow back towards the center of the weir structure and add stability to the wire enclosed rock protection on-slope.

Two wing dikes would be constructed, one on each side of the river channel on the upstream side of the weir to maintain higher peak flows within the existing channel. The wing dikes would be earthen berms, covered in rock armor, with a maximum height of about two feet. The dikes would be approximately 150-feet Tong, flaring out from each bank in the upstream direction.

A staging area, not to exceed two acres, would be provided for the contractor's use during construction. Construction limits of 50 feet upstream of the weir and 200 feet downstream, would be established around the perimeter of the project to prohibit unnecessary habitat destruction. The project site would be accessed by an existing four-mile long two track road. This access road would be improved with accepted rural road best management practices to accommodate heavy vehicle traffic while minimizing erosion and other impacts to natural resources.

Construction would be performed between August 2003 and March 2004. The staging area and upland areas disturbed during construction would be revegetated with native plant species after construction is completed.

Flycatcher surveys of the project area were conducted in 2001, 2002, and 2003. Although no breeding flycatchers were documented, migrants were identified in 2001 and 2002.

The proposed action would minimize channel degradation through 390 acres of mixed native and exotic vegetation along the Rio Jemez. Approximately 223 of these acres provide potential breeding habitat for the flycatcher. Approximately 3.6 acres of potential flycatcher habitat would be disturbed during construction. At least 3.6 acres of cottonwood and willow riparian habitat would be established in the project area upon completion of the project. The Pueblo will monitor revegetated areas to ensure that cottonwood and willow plantings successfully establish.

Bald eagles are known to be present along the Rio Grande and have been present at Jemez Canyon Reservoir during winter. Both adult and juvenile birds maybe present in the area between late November and early March. The Corps conducted aerial surveys along the Rio Jemez and Rio Grande for bald eagles between 1988 and 1996 during the month of January. Between one and three bald eagles were observed during four of the eight years surveyed. Data collected indicate that bald eagles did not preferentially utilize the Jemez Canyon Reservoir area during the survey period.

The NMESFO concurs with the Corps' determination of "may affect, not likely to adversely affect" the flycatcher, for the proposed Rio Jemez low-head weir project. Our concurrence is based on the following understanding of your proposed project:

- At least one acre of native riparian vegetation would be established in the general project area for each acre of potentially suitable flycatcher habitat disturbed during construction. Cottonwood and willow plantings would occur during the appropriate season and under appropriate soil moisture conditions.

- At least one acre of native riparian vegetation would be established in the general project area for each of the other approximately 19 acres of riparian habitat disturbed during construction. Cottonwood and willow plantings would occur during the appropriate season and under appropriate soil moisture conditions.

- The project should help maintain or improve approximately 390 acres of bosque habitat along the Rio Jemez, 223 of which is potential flycatcher habitat.

The NMESFO concurs with the Corps' determination of "may affect, not likely to adversely affect" the bald eagle, for the proposed Rio Jernez low-head weir project. Our concurrence is based on the following understanding of your proposed project:

- No potential bald eagle winter roosting trees would be disturbed during construction.

- Presence/absence of bald eagles would be monitored during construction in the fall and winter.

- If a bald eagle is present within 0.25 mile of the project area in the morning before project activity begins, or arrives during breaks in project activity, the contractor would be required to suspend all activity until the bird leaves of its own volition; or a Corps biologist, in consultation with the Service, determines that the potential for harassment is minimal.

- If bald eagles are consistently found in the immediate project area during the construction period, the Corps would contact the Service to determine if formal consultation under the ESA is necessary.

Please contact the Service to verify the above determination and concurrence are still valid if: 1) Future surveys detect listed, proposed or candidate species in habitats where they have not been previously observed; 2) the project is changed or new information reveals effects of the actions to the listed species or their habitats to an extent not considered in this evaluation; or 3) a new species is listed that may be affected by these project.

This concludes section 7 consultation on the Corps' Rio Jemez low-head weir project. The Service appreciates the information provided by Corps in preparing this evaluation. We also appreciate your commitment to avoid adverse effects to listed species and your efforts to improve fish and wildlife habitat, particularly flycatcher habitat. In future communications

regarding this memorandum or the proposed project, please refer to Consultation #2-22-03-1453. If you have any questions concerning this letter, please contact John Branstetter of my staff at (505) 346-2525, ext. 4753.

Sincerely,

Joy E. Nicholopoulos
State Supervisor

cc:
Governor, Pueblo of Santa Ana
Director, New Mexico Department of Game and Fish, Santa Fe, New Mexico
Director, New Mexico Energy, Minerals, and Natural Resources Department, Forestry and Resources Conservation Division, Santa Fe, New Mexico
State Director, Bureau of Land Management, Santa Fe, New Mexico